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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/416,618	10/12/1999	ROBERT PAASCH	10980780-1	6379

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EXAMINER

NGUYEN, LAM S

ART UNIT PAPER NUMBER

2853

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/416,618

Applicant(s)

PAASCH, ROBERT

Examiner

LAM S. NGUYEN

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-17,19-27 and 29-33 is/are pending in the application.
4a) Of the above claim(s) 17,19-22,26 and 27 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☒ Claim(s) 1,2,4-16,23-25 and 29-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on October 12, 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

In response to the previous restriction requirement, the applicants elected claims 1-2, 4-16, 23-25, and 29-33 for further prosecution. As a result, claims 17, 19-22, and 26-27 is withdrawn from consideration.

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I: The invention draws to a print head apparatus having a pressure sensor that is formed in a same plane as the ink expulsion mechanisms.

Species II: The invention draws to a print head apparatus having a first sensor and a second sensor that are provided in a substantially orthogonal arrangement on said substrate.

Species III: The invention draws to a print head apparatus having a sensor mechanism that is capable of detecting a pressure wave of a first non-zero magnitude indicative of when said nozzle is clogged.

The claims are restricted to different species due to mutually exclusive because the limitation “a pressure sensor that is formed in a same plane as the ink expulsion mechanisms” is found in species I but not either in species II or species III. Similarly, the limitation “a first sensor and a second sensor that are provided in a substantially orthogonal arrangement on said substrate” is found in species II but not either in species I or species III. Finally, the limitation “a sensor mechanism that is capable of detecting a pressure wave of a first non-zero magnitude indicative of when said nozzle is clogged” is found in species III but not either in species I or species II.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic claim.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Response to Arguments

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In response to the applicants' traversal on the previous restriction requirement filed on 04/28/2005, the examiner cites that "*Under the statute an application may properly be required to be restricted to one of two or more claimed inventions if they are able to support separate patents and they are either independent or distinct*" (MPEP 803). In this case the application contains the inventions that are patentable over each other so the inventions support separate patents.

In addition, the applicants also traverse the restriction requirement on the ground that the searches would be co-extensive and would not unduly burden the examiner. This is not found persuasive because burden is not only based upon searches being co-extensive. Examination and analysis for determination of patentability creates burden.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAM S. NGUYEN whose telephone number is (571)272-2151. The examiner can normally be reached on 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, STEPHEN D. MEIER can be reached on (571)272-2149. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN

July 2, 2005


HAI PHAM
PRIMARY EXAMINER